

Notice of Allowability

Application No.

10/509,104

Examiner

Etsub D. Berhanu

Applicant(s)

KAWASAKI, SHINGO

Art Unit

3768

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 18 September 2006.
2. ☒ The allowed claim(s) is/are 3-34.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
- ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
- ☐ Notice of Informal Patent Application
- ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
- ☒ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other _____

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EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Melvin Kraus on 14 November 2006, wherein amendments were discussed to provide proper antecedent basis for the claim terms. The amendments do not affect the scope of the claimed subject matter.

The application has been amended as follows:

In Claim 3, line 10, -- a -- was inserted between "of" and "hemoglobin".

In Claim 3, line 13, the term "characteristic" was changed to -- characteristics --.

In Claim 4, line 2, the term "characteristic" was changed to -- characteristics --.

In Claim 4, line 3, the term "patterns" was changed to -- pattern --.

In Claim 5, line 16, the first "the" was deleted.

In Claim 6, line 16, the first "the" was deleted.

In Claim 8, line 10, -- a -- was inserted between "of" and "hemoglobin".

In Claim 8, line 13, the term "characteristic" was changed to -- characteristics --.

In Claim 8, line 20, the first "the" was changed to -- a --.

In Claim 9, line 5, the term "guide" was changed to -- guided --.

In Claim 9, line 16, the first "the" was deleted.

In Claim 9, line 28, the term "the" was changed to -- a --.

Claim 24 has been amended to read:

24. A biological photometer according to claim 3, wherein[,] the judgment unit judges a kind of disease based on a correlation between the measured hemoglobin signals and [the] an average of the variation patterns of the reference templates stored in the memory unit.

Claim 25 has been amended to read:

25. A biological photometer according to claim 5, wherein[,] the judgment unit judges a kind of disease based on a correlation between the measured hemoglobin signals and [the] an average of the variation patterns of the reference templates stored in the memory unit.

Claim 26 has been amended to read:

26. A biological photometer according to claim 3, wherein[,] the judgment unit determines correlations between the measured hemoglobin signals and [the] an average of the variation patterns of the plurality of reference templates stored in the memory unit and judges a kind of disease based on a reference template having the highest correlation or a reference template having a predetermined value.

Claim 27 has been amended to read:

27. A biological photometer according to claim 5, wherein[,] the judgment unit determines correlations between the measured hemoglobin signals and [the] an average of the variation patterns of the plurality of reference templates stored in the memory unit and judges a kind of disease based on a reference template having the highest correlation or a reference template having a predetermined value.

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Claim 28 has been amended to read:

28. A biological photometer according to claim 3, wherein[,] the signal processing unit displays [the] a judgment result from the judgment unit.

Claim 29 has been amended to read:

29. A biological photometer according to claim 5, wherein[,] the signal processing unit displays [the] a judgment result from the judgment unit.

Claim 30 has been amended to read:

30. A biological photometer according to claim 6, wherein[,] the signal processing unit displays correlations with respective diseases.

Claim 31 has been amended to read:

31. A biological photometer according to claim 4, wherein[,] the judgment unit determines whether the characteristics of the measured hemoglobin variation is within [the] a standard deviation in the reference template of a predetermined disease and if within the standard deviation, is judged as the disease.

Claim 32 has been amended to read:

32. A biological photometer according to claim 7, wherein[,] the judgment unit determines whether the characteristics of the measured hemoglobin variation is within [the] a standard deviation in the reference template of a predetermined disease and if within the standard deviation, is judged as the disease.

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2. The following is an examiner's statement of reasons for allowance: None of the prior art teaches or suggests, either alone or in combination, a biological photometer comprising a judgment unit capable of judging whether a subject is in normal health or has a disease by comparing an extracted characteristic of a hemoglobin variation pattern with respective reference templates of normal health and a variety of diseases already stored in a memory unit.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etsub D. Berhanu whose telephone number is 571.272.6563. The examiner can normally be reached on Monday - Friday (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eleni Mantis-Mercader can be reached on (571)272-4740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ERIC F. WINAKUR
PRIMARY EXAMINER



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